

Application No. 10/605,883
Reply to Office Action of January 24, 2007

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REMARKS/ARGUMENTS

JUN 25 2007

This Amendment is in response to the Non-Final Office Action mailed on January 24, 2007 for the present application, which has been reviewed. The pending Claims 1-8 have been amended; considered together with the following remarks, the arguments below, and request for reconsideration are believed sufficient to place the application into condition for allowance. Support for the amendment of claims 1 and 2 can be found in Figures 5 and 6. Support for the amendment of claim 3 can be found in paragraph [0030] of the Specification. Support for the amendment of claim 4 can be found in paragraph [0032] of the Specification. Support for the amendment of claim 7 can be found in paragraph [0029] of the Specification. No new matter has been added to the application. Applicant expresses appreciation for the thoughtful examination by the Examiner.

Drawings

The present actions states the current drawings are acceptable for examination purposes only and that they have an additional line inserted in 6 of the 10 drawings. Applicant requests further clarification of this statement. Review of the present application as shown as Publication No. 2005/0096159 at the USPTO website does not show the additional line.

Election/Restriction

The original Claims 1-26 have been subject to a Restriction Requirement. Claims 9-26 have been withdrawn. Applicants reserve the right of petition from this

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Restriction Requirement under 37 C.F.R. § 1.114 and Applicant reserves the right to file one or more continuing applications on the withdrawn claims.

Rejection of Claims 1-4 and 7 Under 35 U.S.C. §102 (b) Should Be Withdrawn

The present Office Action rejects claims 1-4 and 7 under 35 U.S.C. Section 102(b) as being anticipated by Courtney (U.S. Patent 6,472,220). Applicant respectfully traverses this rejection and requests favorable reconsideration and withdrawal of this rejection. Further, Applicant submits this rejection is rendered moot by the foregoing amendments and the following comments.

The standard for a rejection under 35 U.S.C. §102(b) is established in MPEP §2131. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. If an independent claim is allowable under 35 U.S.C. §102, then any claim depending therefrom is also allowable.

Claims 1-4 and 7 are drawn to a training device for use with a hollow handled sport stick comprised on a plurality of individual end threaded connecting rod members, providing weight at a selected location along said sport stick.

Courtney does not teach each and every element as set forth in the claims. Courtney discloses an Indian Club comprised on a threaded guide rod arranged lengthwise having screw-threaded end portions from the head to the bottom of said club and springs attached to a weight above and below on opposite ends.

With regards to claim 1, as presently amended, Courtney does not teach a training device including a plurality of individual end threaded connecting rod members,

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providing weight at a selected location along a sport stick as recited in claim 1. Courtney discloses one continuous threaded guide rod arranged lengthwise having screw-threaded, wherein different sections are threaded along said guide rod. Courtney states, "B is a longitudinal supporting or guide rod . . ." (lines 35-36, emphasis added). In contrast, claim 1 of Applicants recite individual end threaded connecting rods members which is configured to fit snugly within a hollow handle as disclosed in paragraph [0027] of the instant specification, with the advantage of cushioning or suppressing any movement of the training device within the hollow handle. This configuration and advantage is not taught by Courtney.

With regard to claim 2, Courtney again discloses one continuous threaded guide rod, not a "threaded connector" as stated in the present action. In contrast claim 1 and 2, as presently amended, of the present application is drawn to threaded connectors connecting said individual rod members. This reduces the number of required overall components and thereby reducing manufacturing cost. The amendments to claims 1 and 2 make this particular distinction more apparent.

With regards to claim 3, Courtney does not disclose a training device comprised of a lacrosse stick as presently claimed.

With regard to claim 4, as amended, Courtney does not disclose a training device comprised of a pull cord as presently claimed.

With regard to claim 7, as amended, Courtney does not disclose a training device comprised of a mid bumper slidably received by a friction fit as presently claimed.

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Further, claim 1, as amended, is believed to be patentably distinct from Courtney. Claims 2-4, and 7, depend from claim 1 and as such are also considered patentably distinct.

Thus, present Office Action has not met its burden of disclosing each and every element as set forth in the pending claims, either expressly or inherently. Therefore the rejection of anticipation must be withdrawn, as required by the Manual of Patent Examiners (MPEP). Section 2141.

Rejection of Claims 1-4, 6, and 8 Under 35 U.S.C. § 102 (b) Should Be

Withdrawn

The present action rejects Claims 1-4, 6, and 8 under 35 U.S.C. Section 102(b) as being anticipated by Sabat (US Patent 4,132,408). Applicant respectfully traverses this rejection and requests favorable reconsideration and withdrawal of this rejection. Further, Applicant submits this rejection is rendered moot by the foregoing amendments and the following comments.

Sadat discloses a novel weapon comprised of a combination night stick and nunchaku. These pending claims are all drawn to a sport training device, whereas Sadat discloses only the use of a novel weapon. The components of Applicants claimed invention and Sadat are completely different. Sadat discloses elongated axial component members connected by a flexible cable. These limitations are not required for the claimed invention of the Applicants. Furthermore, Sadat's invention is not designed to provide weight at selected locations along a sport stick as claimed by Applicants.

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The present Office Action has not met its burden of disclosing each and every element as set forth in the pending claims, either expressly or inherently. Therefore the rejection of anticipation must be withdrawn, as required by the Manual of Patent Examiners (MPEP). Section 2141.

Rejection of Claims 1-4, 6, and 8 Under 35 U.S.C. § 102 (b) Should Be Withdrawn

The present action rejects claims 1-4, 6, and 8 under 35 U.S.C. Section 102(b) as being anticipated by Ross (U.S. Patent 5,029,847). Applicant respectfully traverses this rejection and requests favorable reconsideration and withdrawal of this rejection. Further, Applicant submits this rejection is rendered moot by the foregoing amendments and the following comments.

Ross discloses a folding exercise stick connected by threaded connectors and a third coupling to loosely couple the elongated members together when the connectors are disengaged. The pending claims in the present Application are all drawn to a sport training device, whereas Ross merely discloses a foldable exercise stick. The components of Applicants claimed invention and Ross are completely different. Ross disclose an elongated axial component members connected by a flexible cable, these limitations are not required for the claimed invention of the Applicants. Moreover, Ross's invention is not designed to provide weight at selected locations along a sport stick as claimed by the Applicants.

The present Office Action has not met its burden of disclosing each and every element as set forth in the pending claims, either expressly or inherently. Therefore the rejection of anticipation must be withdrawn, as required by the Manual of Patent

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Examiners (MPEP). Section 2141.

Rejection of Claims 1-4, and 6-8 Under 35 U.S.C. § 103 (a) Should Be Withdrawn

The present action rejects Claims 1-4, and 6-8 under 35 U.S.C. Section 103(a) as being unpatentable over McKevitt, et al. (U.S. Publication No. 2004/0142754) in view of Winslow (U.S. Patent 5,328,431). Applicant respectfully traverses this rejection and requests favorable reconsideration and withdrawal of this rejection. Further, Applicant submits this rejection is rendered moot by the foregoing amendments and the following comments.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings for a sport training device with the claimed specific properties. Second, there must be some reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be both found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 2142.

The pending claims are drawn to a training device including a plurality of individual end threaded connecting rod members, providing weight at a selected location along a sport stick. McKevitt et al is drawn to a pool cue weighting system and Winslow is drawn to an exercise bar. Both cited references are drawn to non-analogous arts. Therefore there would be no motivation to combine. Neither reference cited teach

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or makes obvious the salient point of a training device including a plurality of individual end threaded connecting rod members, providing weight at a selected location along a sport stick, more particularly comprised of a lacrosse stick as claimed.

The prior art cited does not teach or suggest the essential elements to make the claimed combination for a training device, and the reasonable expectation of success must both be found in the prior art and not based on Applicants' disclosure. The prior art cited in the Office Action is not drawn to a sport training device and does not provide sound scientific reasoning why this art can be correlated to the specific limitations of the claimed invention. The present Office Action has not met its burden of establishing a *prima facie* case of obviousness, as required by the Manual of Patent Examiners (MPEP). Section 2142.

Rejection of Claim 5 Under 35 U.S.C. § 103 (a) Should Be Withdrawn

The present action rejects Claims 1-6 under 35 U.S.C. section 103(a) as being unpatentable over Taylor et al. (U.S. Publication No. 2004/0248676) in view of Nolan (U.S. Patent 5,741,193). Applicant respectfully traverses this rejection and requests favorable reconsideration and withdrawal of this rejection. Further, Applicant submits this rejection is rendered moot by the foregoing amendments and the following comments.

Neither Taylor or Nolan teach a training device including a plurality of individual end threaded connecting rod members, providing weight at a selected location along a sport stick. Both references disclose merely weights on the end of the device. The

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present invention allows not only application of weight at its end, but also along a plurality of points internal to the device.

The prior art cited does not teach or suggest the essential elements to make the claimed combination for a training device, and the reasonable expectation of success must both be found in the prior art and not based on Applicants' disclosure. The prior art cited in the Office Action is not drawn to a sport training device and does not provide sound scientific reasoning why this art can be correlated to the specific limitations of the claimed invention. The present Office Action has not met its burden of establishing a *prima facie* case of obviousness, as required by the Manual of Patent Examiners (MPEP). Section 2142.

In light of the foregoing, Applicant therefore believes claims 1-8 are in condition for allowance and respectfully requests such allowance.

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CONCLUSION

Examiner noted that the prior art of record was considered pertinent to Applicant's disclosure. Applicant has reviewed the prior art of record and submits it does not adversely bear on the patentability of the pending claims.

In light of the foregoing, Applicant respectfully submits he has addressed each and every item presented by the Examiner in this Office Action. Favorable reconsideration of all of the claims earnestly solicited. Applicant submits that the present application, with the foregoing claim and specification amendments and accompanying remarks, is in a condition for allowance and respectfully requests such allowance.

In the event any further matters requiring attention are noted by Examiner or in the event that prosecution of this application can otherwise be advanced thereby, a telephone call to Applicant's undersigned representative at the number shown below is invited.

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Reconsideration of this application, as amended, is respectfully requested.

It is believed that this application now is in condition for allowance. Further and favorable action is requested.

Respectfully submitted,

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June 25, 2007
Date

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